

THE LEONARD LETTER

*A weekly electronic newsletter about
California government, business and taxes*

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QUOTE OF THE WEEK

“Money is power, more money for the government is more power for the government. More power for the government will allow it to, among many other things, amuse itself by putting its fingers in a million pies, and stop performing its essential functions well, and get dizzily distracted by nonessentials, and muck up everything. Which is more or less where we are.”

Peggy Noonan

AROUND THE STATE

*****Why We Need an Elected Tax Board*****

A case before us last week exemplifies why California's elected tax board is so important. In a Franchise and Income Tax case last week, a taxpayer came before us insisting that FTB had double-taxed his income, and on top of this assessed penalties and interest.

The taxpayer did not file tax returns for 3 years (big mistake, not recommended) so FTB made up his tax return for him by calculating (guessing) average salary data of his profession and added it to his W-2 form. What FTB missed was that the W-2 was all of his professional income so they doubled his projected income and took the money out of his bank account.

The taxpayer exhausted all internal administrative remedies at FTB before appealing his case before the BoE. The taxpayer had failed to meet the statute of limitations deadline for disputing the double tax, but the mistake was so egregious he was able to appeal to the BoE. Because of this, FTB took another look at the case and on the morning of the hearing they changed their story and returned the gentleman his money.

Had this situation not been presented in public before the Board I am doubtful this taxpayer would have received justice. I am very gratified that California has the Board of Equalization. You should be too.

*****Outraged Bureaucrat Responds to Me*****

The supervisor for the workers comp appeals board “presiding judge” (they are not really judges) that was featured last week sent me this via email:

“I am the Court Administrator for the Division of Workers' Compensation. I supervise the Presiding Judge that wrote the memorandum that was mischaracterized in your Leonard Letter below. I would appreciate it in the future that if you choose to write about a memorandum belonging to my Division, or any other Division, that you properly capture the content and tone. Your Leonard Letter did NOT capture that language and tone - this gives rise to the credibility of the rest of the content of your "Leonard Letter." Judge Harter politely asked the parties to follow the rules. These are not local rules as you indicate, but Administrative Procedures Act complied with, Rules of the DWC and WCAB, and published to the general members of the public in numerous media, who apparently have ignored the rule as you ignored the rest of the memo contents. Thank you.”

First of all, as to misrepresenting the contents of the memo, in the first line of the story last week I provided an electronic link to the document I summarized, which can be found here (Thank you Jennifer Nelson from the FlashReport Blog):

<http://www.flashreport.org/files/2007040314471592.pdf>

Second, the response totally misses the point and illustrates what is wrong with big government generally. It begs the question why they have such a policy to begin with. His saying that obscure government bodies have created a rule, then saying the public was notified about it, in no way justifies a stupid policy.

Moreover, for an agency to go one step beyond this and basically say, “It’s YOUR fault for ignoring our stupid rule” is just another slap in the face to both the injured workers who are seeking justice and employers who are trying to document fake injuries.

I suggest that the workers comp division retire hole-punched documents entirely, along with the buggy whip. They should allow the public to submit documents in a variety of formats, including electronic, as we are doing at the BoE.

UNDER THE DOME

*****Wiki Lawmaking*****

I am a fan of a Utah legislator’s website that allows everyone to comment on pending bills in the Utah state house. Rep. Stephen Urquhart’s (R-St George) site provides information on legislation that is posted by those citizens who care enough to spend time posting. Readers can register and post their own comments and links. There is a similar site for California bills at: <http://www.assembly.ca.gov/acs/acsframeset2text.htm> -- But the California site only posts official information, not commentary that everybody can see.

Where Urquhart’s site could be a particularly valuable tool is on those bills that do not have broad public interest. When I served in the legislature, I was often asked to vote on bills on which I had no particular knowledge or expertise and yet received not a single letter, phone call or email. One letter from a real person is a powerful influence on legislators.

A wiki legislative site would encourage people to communicate easily with legislators, offer their comments to a broad audience, and give other members of the public the opportunity to see and evaluate those comments.

I encourage California legislators to give such wiki legislating a try. To see Rep. Urquhart's site, go to: <http://www.politicopia.com/>

ISSUE FOCUS

Spending Limit Success

Budget season is approaching Sacramento again. We will once again hear complaints that the state does not bring in enough money to pay for all the "services" it must provide. There will be calls for higher taxes. A few sane voices will call for reducing spending. We are likely to be hearing the debate well into the summer rather than concluding it by the constitutional deadline of June 15th. Unfortunately, what I doubt will be part of any of these discussions is a reasonable spending limit. I urge lawmakers to review a brief report by the Main Heritage Policy Center by Geoffrey Segal. He focuses on how local governments have used shared services, introduced competition, leveraged public assets and linked appropriations to performance to control spending. He concludes, "Good government ... requires that all 'investments' by government be routinely assessed for their actual effectiveness. Only those activities that provide the greatest benefit should be funded at a level relative to the goals and priorities set by the people." To read Segal's report, go to this link:

[http://www.mainepolicy.org/Portals/0/The%20Maine%20View%20-%20Vol.%20%204,%20Issue%20No.%2010%20\(final\).pdf](http://www.mainepolicy.org/Portals/0/The%20Maine%20View%20-%20Vol.%20%204,%20Issue%20No.%2010%20(final).pdf)

Paul Gann was ahead of his time in 1979 with the Gann Spending Limit. It worked wonderfully for the roughly ten years that it was in effect before it was watered down. Had been allowed to stand as originally passed, we would today be taking in more revenue than we would be allowed to spend, and enjoying a healthy surplus. One of the remarkable effects of this law was that in 1987 the state was forced to refund \$1.1 billion in surplus revenues to all Californians. It is hard to imagine this happening today.

Michael New with the Cato Institute has a good summary of the Gann Spending Limit's history: http://www.cato.org/pub_display.php?pub_id=2871

MISCELLANY

Students of Liberty

Much of the news about public policy proposals in California this year has demonstrated the need for refresher courses in the concept of liberty. While it may be too late for many legislators, I encourage college students to participate in one of the many free seminars offered this summer by the Institute for Humane Studies. IHS is run out of George Mason University,

but the seminars are held at locations all over the country. The seminars are heavy on fascinating discussions lead by distinguished faculty and tremendous opportunities to socialize with other students who are committed to the ideals of liberty. They are free to participants and range from the beginning level, "Exploring Liberty" to more specific topics of journalism or globalization. One of my staff members has participated in several IHS seminars and speaks highly of the intellectual stimulation, historical background and fascinating reading. If you, or a college student you know are intrigued by personal freedom and responsibility, then I encourage you to check out these seminars and see how you can advance the cause of liberty.

<http://www.theihs.org/seminars/id.71/default.asp>

*****A Good Read*****

In the wake of the tragic massacre at Virginia Tech, I saw a link to this book on a blog: "Principles of Personal Self Defense" by Jeff Cooper. After reviewing the book, I recommend it to all who ask what can be done to protect themselves or their children against such horror. Cooper says, in his preface that he, "assumes that the right to self-defense exists. Some people do not. This booklet is not for them. This is for those who feel that anyone who chooses physically to attack another human being does so at his peril." If you are one of those who share the view that self-defense is your right, then proceed to this short book to learn about Cooper's seven principles of self-defense from alertness to surprise.

BOE AND LEGISLATIVE DATES

May 28, 2007 --- Memorial Day observed

May 31, 2007 --- Board of Equalization meets in Sacramento.

June 1, 2007 --- Board of Equalization meets in Sacramento.

June 8, 2007 --- Last day to pass bills out of house of origin (J.R. 61(a)(8)).

June 15, 2007 --- Budget Bill must be passed by midnight (Art. IV, Sec. 12(c)).

June 19-21, 2007 --- Board of Equalization meets in Culver City.

July 4, 2007 --- Independence Day.

July 13, 2007 --- Last day for policy committees to hear and report bills (J.R. 61(a)(10)).

July 17-18, 2007 --- Board of Equalization meets in Sacramento.

July 20, 2007 --- Summer Recess begins on adjournment, provided Budget Bill has been passed (J.R. 51(a)(3)).

NOTABLE DATES/ HISTORY

April 30, 1789 --- George Washington was inaugurated as the first president of the United States in New York City.

April 30, 1803 --- The United States doubled its size with the Louisiana Purchase. The 828,000 square miles was purchased from France for \$15 million.

May 1, 1844 --- Samuel Morse sent the first telegraphic message.

May 2, 1863 --- During the American Civil War, Confederate General "Stonewall" Jackson is accidentally shot by his own men at Chancellorsville, Virginia; he died eight days later.

May 3, 1921 --- West Virginia imposed the first state sales tax.

May 3, 1937 --- Margaret Mitchell was awarded the Pulitzer Prize for "Gone With the Wind."

May 3, 1979 --- Margaret Thatcher led the Conservative Party to victory in Britain's general elections and was sworn in as Britain's first female prime minister the next day.

May 4, 1865 --- President Abraham Lincoln was buried in Springfield, Illinois about three weeks after his assassination in Washington, D.C.

May 4, 1932 --- Al Capone, convicted of income tax evasion, began serving his prison sentence in the Atlanta Penitentiary.

May 5, 1925 --- Biology teacher John Scopes was arrested for teaching the theory of evolution, which was outlawed in Tennessee's public schools.

May 6, 1937 --- The largest airship ever built, the Hindenburg, caught fire when landing in New Jersey, killing 36 passengers and crew members.

GENERAL TAX INFORMATION

For answers to your general tax questions, call the Board of Equalization information center. Customer service representatives are available to help you from 8:00 a.m. to 5:00 p.m. Pacific time, Monday through Friday (except state holidays).

Toll-free number: 800-400-7115

TDD service for the hearing impaired

TDD phones: 800-735-2929

Voice phones: 800-735-2922

To reach the Taxpayer Rights Advocate's office for assistance with any BOE issues, see <http://www.boe.ca.gov/tra/tra.htm>, or call toll-free 1-888-324-2798.

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